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3 UNITED STATES DISTRICT COURT  
4 SOUTHERN DISTRICT OF CALIFORNIA  
5

6 UNITED STATES OF AMERICA,  
7 Plaintiff,

Case No.: 14cr3575

8 v.

**ORDER RE: SUCCESSIVE 2255  
MOTION**

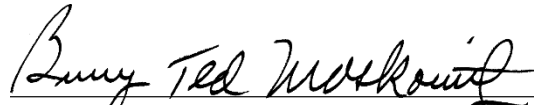
9 JAVIER FIGUEROA-  
10 CONSTANTINO,

11 Defendant.  
12

13 Defendant Javier Figueroa-Constantino has filed a motion to reduce his  
14 sentence under 28 U.S.C. § 2255 based on Dean v. United States, 581 U.S.\_\_\_\_,  
15 137 S. Ct. 1170 (2017). However, Defendant previously filed a § 2255 motion,  
16 which was denied in an order filed on February 8, 2016. Accordingly, Defendant's  
17 instant motion is successive, and Defendant must make a motion in the Ninth  
18 Circuit Court of Appeals for an order authorizing this Court to consider it. 28 U.S.C.  
19 § 2255(h). The Court cannot consider Defendant's instant motion unless a panel  
20 of the Ninth Circuit Court of Appeals certifies the motion to contain newly  
21 discovered evidence or a new rule of constitutional law made retroactive to cases  
22 on collateral review by the Supreme Court. Id.

23 IT IS SO ORDERED.

24 Dated: June 9, 2017

25   
26 Barry Ted Moskowitz, Chief Judge  
27 United States District Court  
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